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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,260	02/05/2001	Richard David Brunt	50900	9727

7590 07/22/2004  
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EXAMINER

MEHTA, ARUNKUMAR P

ART UNIT PAPER NUMBER

2128

DATE MAILED: 07/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/776,260

Applicant(s)

BRUNT ET AL.

Examiner

Arunkumar P Mehta

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**BEST AVAILABLE COPY****Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This application has been examined.
2. Claims 1-13 have been examined.

#### *Priority*

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in United Kingdom on 01 June 2000. It is noted, however, that applicant has not filed a certified copy of the 0013164.9 application as required by 35 U.S.C. 119(b).

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 3 recites the limitation "the interior" in line 1. There is insufficient antecedent basis for this limitation in the claim. It appears that this phrase should be "an interior".
7. Claim 13 recites the limitation "the user" in line 1. There is insufficient antecedent basis for this limitation in the claim. It appears that this phrase should be "an user".

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***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Joan A. Schuller et al (US 2001/0047250), herein is referred to as Schuller.

10. As per claim 1, Schuller discloses selecting from a database containing images of structural archetypes stored in electronic format on storage means an archetype image that closely matches the structure to be painted (Abstract; 6<sup>th</sup> paragraph; 7<sup>th</sup> paragraph; 8<sup>th</sup> paragraph; 26<sup>th</sup> paragraph), the definition of the word archetype according to Merriam-Webster dictionary (<http://www.webster.com>) is "the original pattern or model of which all things of the same type are representations", building, house, any space or interior of a building, room of a house etc. are one of structural archetypes;

selecting a colour or colours from a database comprising colours stored on in electronic format on storage means, applying the colour or colours to the image to produce a colour scheme and (9<sup>th</sup> paragraph; 28<sup>th</sup> paragraph; 39<sup>th</sup> paragraph; figure 6A, item 618);

displaying the structure or part of a structure with the colour applied and providing information from which paint corresponding to the colour or colours in the colour scheme can be identified (28<sup>th</sup> paragraph; 39<sup>th</sup> paragraph; figure 6A, item 618).

11. As per claim 2, Schuller discloses structural archetypes are images of a building (26<sup>th</sup> paragraph).
12. As per claim 3, Schuller discloses the image is of the interior of a building (Abstract; 3<sup>rd</sup> paragraph; 6<sup>th</sup> paragraph; 8<sup>th</sup> paragraph; 21<sup>st</sup> paragraph).
13. As per claim 4, Schuller discloses the building is a house (3<sup>rd</sup> paragraph; 21<sup>st</sup> paragraph)
14. As per claim 5, Schuller separate areas of the archetypes can be coloured separately one from another (12<sup>th</sup> paragraph; 30<sup>th</sup> paragraph).
15. As per claim 7, Schuller discloses the archetype is an interior of a building and also contains furniture and furnishings (Abstract; 6<sup>th</sup> paragraph; 23<sup>rd</sup> paragraph; 26<sup>th</sup> paragraph; figure 6C)
16. As per claim 8, Schuller discloses colour can be applied separately to furniture and furnishings (23<sup>rd</sup> paragraph; 30<sup>th</sup> paragraph; 38<sup>th</sup> paragraph; 39<sup>th</sup> paragraph).
17. As per claim 9, Schuller discloses images are photographic quality (figure 6C).
18. As per claim 10, the colours are assembled in groups in which the colours are complementary or contrasting one with another (9<sup>th</sup> paragraph; 28<sup>th</sup> paragraph; 39<sup>th</sup> paragraph; figure 6C, item 618).

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19. As per claim 11, Schuller discloses remote access to the database (8<sup>th</sup> paragraph; 10<sup>th</sup> paragraph; 11<sup>th</sup> paragraph; 12<sup>th</sup> paragraph; 22<sup>nd</sup> paragraph; figure 1, items 11-113).

20. As per claim 12, Schuller discloses access via the Internet (3<sup>rd</sup> paragraph; 51<sup>st</sup> paragraph; figure 1, item 150)

21. As per claim 13, Schuller the user can enter from his point of access, the image to be coloured in electronic form (12<sup>th</sup> paragraph; 20<sup>th</sup> paragraph; 23<sup>rd</sup> paragraph; 34<sup>th</sup> paragraph; figures 6A-6C).

***Claim Rejections - 35 USC § 103***

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Joan A. Schuller et al (US 2001/0047250), herein is referred to as Schuller.

23. As per claim 6, Schuller discloses walls, doors, moldings, windows, fireplace, and ceiling (Abstract; 6<sup>th</sup> paragraph; 35<sup>th</sup> paragraph; 62<sup>nd</sup> paragraph; 72<sup>nd</sup> paragraph).

Schuller fails to disclose coving, and dado rails. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to use images of other structural objects for client selection for simulation. The sills and window frames are inherent in windows and the skirting boards are interpreted as moldings.

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**Conclusion**

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brown (US 6,524,107), Apparatus and method for displaying room wall and floor covering arrangements for selection by a purchaser.

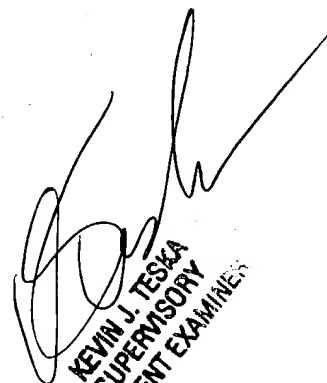
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arunkumar P Mehta whose telephone number is 703-605-1227. The examiner can normally be reached on 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703-305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arunkumar P Mehta  
Examiner  
Art Unit 2128

APM

  
KEVIN J. TESKA  
SUPERVISORY  
PATENT EXAMINER

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